THE PORT FOLIO

ENLARGED.

BY OLIVER OLDSCHOOL, ESQ.

..... "VARIOUS, THAT THE MIND
OF DESULTORY MAN, STUDIOUS OF CHANGE,
AND PLEAS'D WITH NOVELTY, MAY BE INDULGED"
COWPER.

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PHILADELPHIA, SATURDAY, MARCH 6th, 1802.

ORIGINAL PAPERS.

FOR THE PORT FOLIO.

THE AMERICAN LOUNGER,

BY SAMUEL SAUNTER, ESQ.

No. VIII.

"In vain, poor nymph, to please my youthful sight
You sleep in cream and frontlets all the night;
Your face with patches foil, with *paints* repair,
Dress with gay gowns, and shade with foreign hair."

PARNELL.

TO THE AMERICAN LOUNGER,

SIR,

I AM from the country, and having heard much of you, and of your good advice to the fair sex, I take the liberty of laying my case before you, in hopes that your good sense will direct me in my future conduct, and that your goodness of heart will sympathise with, and console me, under the weight of my present sufferings.

You must know then, sir, that I have been but one week married, to a most worthy young gentleman, whose natural honesty of disposition, and haughtiness of spirit cannot, even in a wife, brook or forgive deception. But I will relate all the facts which have led to my husband's neglect of me, and then, perhaps, you may tell me how it may be overcome.

We were both of us born and educated in the country; and our parents living near to each other, we have been, from our infancy, companions, and, consequently, at a very early age, contracted a warm friendship for each other. No wonder then, that this attachment should ripen to a more exalted kind: and, when I was only sixteen, he asked my hand. I could not, for a moment, think of any other man as a husband, and would immediately have been married, but the wisdom of our parents interposed, and it was agreed that Mr. Z. must first get into a way of maintaining me.

Our engagement was considered as sacred, and four years were allotted as the time to elapse, before the completion of our wishes. Fate ordained a temporary separation. My lover went to distant lands; and, in order to dissipate the gloom occasioned by his absence, my parents permitted me to come to this city. My manners or appearance not being at at all outré, I was very soon brought into notice, and soon contracted a love for the dissipation of a city life, and for three years rioted in its pleasures. When I found my health and bloom begin to decay, I resorted to the common practice of giving false colours to my face, which I found, when applied with judgment, always succeeded as I wished.

About six months ago, Mr. Z. returned. He was delighted to find me here; and, altogether, our meeting was, as you may imagine, rapturous beyond description. Our marriage was immediately spoken of; and, among other remarks, he said, "I am glad to find you have not been rake enough to destroy the radiant bloom of nature and health. Thy cheeks, love, amid all thy dissipation, still retain their roses. This (patting my face with his hand) is the honest blush of innocence and nature. How much superior, in my eyes, to all the daubings of foreign artifice!" This was truly a hair breadth escape from a discovery, which, during the remainder of our courtship, I always made out to avoid.

Now we have been married but one little week, and my husband appears to have resigned himself to such a state of sullen sadness, as no efforts of mine, I fear, will ever be able to overcome. Unluckily, he came suddenly into my chamber the other morning, and caught me (oh mournful to relate!) in the very act of rouging. Struck with surprise, he stood aghast. My embarrassment was so great, that the brush fell from my hand, and I was motionless, with one side of my face red, the other pale as a corpse; one lip rose-coloured, the other blue, and quivering with fright; and my nose only once dipped in Gowland's lotion. You may judge of my distress, and his vexation. I at last broke silence, with "my dear, it is very unkind to open my door, without knocking."..... "Unkind, madam? Then I will ever remain so, to such a haggard image of falsehood and hypocrisy as you present."

In his paroxysm of rage, my toilet was instantly cleared of all its boxes and phials. He desired me immediately to wash my face, and take a final leave of all my charms. I thought compliance my duty, and I am now a living instance of the pernicious effects of paint on my skin, and of the absurdity of using such artifice, to allure the affections of men. I am deservedly the victim of my own folly; and, if sincere repentance is any atonement for my crime, it is fully expiated; and my tears, which have flowed incessantly for four days, must have washed it from every other tablet, but that of my husband's memory. He treats me with coldness when we meet, and tries every possible means of shunning my presence. If I attempt to apologize for the offence I have given him, he bids me cease, nor pile up falsehood upon falsehood, until I have reared a monument of my disgrace.

But this, all this might have been borne, had not his injustice, when we were together in a large company the other evening, almost determined me to quit him forever, and seek a safe retreat from his scorn, in the bosom of parental affection. He called out to me across a room, "My love, you have forgotten to put on your cheeks to-night. Are you sure all your teeth are in your mouth?.... Is that your glass eye or not?" And then whispered to, and laughed with, some gentleman, who sat next to him.

Consider, Mr. Saunter, how vexatious such treatment must be, to a mind of any sensibility.... I am willing, however, if Mr. Z. will receive me again into favour, to forget the past, and make every amendment in my life, which his good sense can require; although I do not think I have deserved so *severe* a punishment, for a foible which ten thousand of my sex possess, without any. I hope, sir, your compassion will appeal for me, and your wisdom reason my husband into forgiveness, or teach me fortitude to support his contempt.

Yours,

FIDELIA.

THEOLOGY.

FOR THE PORT FOLIO.

MR. EDITOR,

I send you an extract, from Brown's system of divinity, on the controverted passage, in the epistle of John; which I hope you will allow to occupy a place in your Port Folio. Speaking on the passage, he says, "Indeed, the Socinians, modern Arians, and some others, pretend the last mentioned text, 1 John 5, 7, to be spurious; because 'Many Greek manuscripts want it.' But of these, many want also other texts; and the similarity of the 7th and 8th verses made a careless transcriber apt to overleap one of them. 'Many of the ancient translations want it.' But none of these translations are of great weight in this matter, as they want much more of the New Testament. Nor are any of them, except the Syriac version and Jerome's Latin one, much worth. 'The ancient fathers do not quote it, when it would have been much to their purpose, in their disputes with heretics.' But that might be, because they had deficient copies, or cared not to adduce a text, which their opponents might have rejected. Let it be observed further, The orthodox had no temptation to forge it, having plenty of proof for their faith concerning the trinity beside. But the anti-trinitarians had strong temptations to drop it out of their copies, which is also more easily done. And yet, perhaps, it originated from no design but the hurry of a transcriber, amidst the rage of persecution. About 1400 years ago, we find complaints of some anti-trinitarians attempting to corrupt the scripture; but never till late, that the orthodox had done so. This text is referred to by Tertullian, about A. D. 200; quoted by Cyprian about 250, and by Athanasius, or one in his name, about 350. Jerome hath it in his translation, about 400, and, admitting it to be in all the best Greek copies, he severely blames the want of it in the old Latin version. Soon after it is quoted by Eucherius and Virgilius. In 484 the African bishops quote it in the confession of their faith, which they presented to Hunneric, that Arian king; and about thirty years after, Fulgentius, when required by an Arian king to produce his objections against the Arians, quoted it three times. When the Vulgate Latin translation was solemnly, and with great care, corrected from Greek and Latin manuscripts, by order of Charles the Great, about 800, and again by the famed university of Sorbonne, about two hundred years after, this text was retained. Erasmus, who inclined to arianism, first suspected it, and dropt it out of his first edition of the New Testament: but restored it in his subsequent editions, upon the credit of an old British copy. It is said, that nine of Stephen's sixteen manuscripts, from which he printed his excellent edition of the Greek New

Testament, had this text. No doubt many of the manuscripts, from which other principal editions were formed, are now lost. A printed copy is even more authentic, than almost any manuscript extant, the oldest of which were written some hundred years after all these of the apostles were worn out or lost; for more learning and care have been exercised to render some printed editions correct, than perhaps was taken on all the manuscripts written for a thousand years before the reformation. The passages appear deficient and unconnected, if this verse be dropt. Mill and Bengelius have, therefore, honestly retained it in their excellent editions, notwithstanding they have fairly, and with much more candour than Michaelis, represented the objections against it."

From this it appears, that all the stress, which a writer in your paper lays on the authority of Erasmus is unfounded. For Erasmus, though he omitted the text in his first editions, yet, after more research and mature deliberation, inserted it in his following editions, which have unquestionably the most authority. It appears likewise, that sir Isaac Newton was not the first, who suspected this passage. Erasmus first conceived suspicions. But he found that his suspicions were groundless. As this text is a good weapon in the hands of trinitarians, they would be foolish, were they to throw it away. It is a weapon, which God hath put into their hands, and therefore they are bound to use it. But were they to lay it aside, they would be armed sufficiently to contend with success against all their adversaries. For the doctrine of the trinity is founded not on this single passage, but on a multitude of texts, so plain, that a denial of the doctrine by those, who admit the authority of the scriptures as decisive on all such points, is indeed matter of surprise to

A PUPIL IN THE SCHOOL OF CHRIST.

REVIEW.

FOR THE PORT FOLIO.

Mr. Oldschool,

IN a journal, literary, moral, and political, called the Spectator of the North, published at Hamburg, for the month of May, 1797, is contained *a Review* of a series of letters, relative to the United States, which, together with the work reviewed, seems strangely to have escaped the notice of our countrymen. Possibly, the severity of remark in which this traveller has indulged, on the several topics, which arrested his attention, may have restrained such as were apprized of the existence of this work, from laying open its contents, to the American public. The letters are not within our reach, but we present an imperfect sketch, such as a translation can afford, not doubting, that some of the readers of your Miscellany, will feel an interest in the perusal.

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LETTERS CONCERNING THE UNITED STATES OF AMERICA.

The Letters concerning the United States of America, of which we are going to give some account, are the productions of a German gentleman, by the name of Bülow, formerly an officer in the Prussian service, who in the month of July, 1795, embarked at this place (Hamburg) for the United States, where he had conceived the project of making a permanent settlement, and who, if we are rightly informed, is either already returned, or is expected every moment to arrive, being determined to live in his own country; convinced by his own experience, that Germany is quite as good as Pennsylvania.

Mr. Bülow had been seduced, like a croud of other Europeans by that prospect of fortune and happiness, which during a space of fifteen years back, so many travellers have laboured to shew us, in the deserts of North America. Undeceived, like other enlightened travellers, who have lately returned from America, Mr. Bülow furnishes us, in his letters, with materials, for the history of a country, about which, it should seem, we have hitherto had nothing but Romances.

Running over the Letters of Mr. Bülow, and calling to mind, all that the Brissot's, the Crevecœur's, &c. have written, on the same subject, one is tempted to believe, that it falls to the lot of certain countries, to be judged of, as famous personages have often been; by turns too much applauded and too much decried; successively the sport of false commendation from enthusiasts, and the calumny of slanderers. Far be it from our intention to place Mr. Bülow in this latter class; and if in the course of his details or the inferences he makes from them, some shades of ill humour should occasionally be seen, we are ready to pardon the mixture, on the score of disappointment, in one, more especially, who after having passed the seas, to settle in a country, where so many writers had promised him the golden age, has the misfortune to discover, that there, as well as here, mankind are still in the midst of the iron age.

The Letters of Mr. Bülow have hitherto appeared only scattered through several numbers of a German Journal*. But we are assured, that a complete collection is about to be published, and it is probable that they will soon be translated into French. Our readers will thank us for not waiting, till then, to make them known.

In the fifteen letters, which are before us, Mr. Bülow particularly regards the United States in a moral and political light; he begins however by observing them in some other points of view.

"The banks of the Delaware present to the stranger, on his first arrival a good idea of North America; they are well cultivated. Thick woods, smiling meadows, handsome country seats, charm the eye of the traveller, more especially when, like us, he has seen, for ten weeks together, nought but sea and sky. The town of Wilmington presents itself very agreeably in the form of an amphitheatre, on the declivity of a small hill. The eastern bank of the river is less interesting."..... ...."Many buildings are erecting at Philadelphia; but we see very few edifices built upon the true principles of architecture. Materials of all kinds, even marble, is abundant..... ....Several merchants of that city, have undertaken buildings on a scale far beyond their means; and to defray the expense, *they borrow money at three per cent per month.*".....

"The natural history of America, is not yet sufficiently known, notwithstanding all the labours of *Buffon*, who moreover was not free from prejudices.....Some of our literati have religiously adopted them. They pretend, for instance, that every thing degenerates, in this quarter of the globe; and they will not fail to anathematise me, when judging of things from the testimony of my own senses, I maintain, that the horse, the ox, nor the sheep, have in no way degenerated here, neither in shape, in strength, nor in symetry of figure.

"At a race-ground, near Germantown, I saw the finest and the swiftest horses run a four mile heat, in eight minutes. I know not whether this was a mark of inferiority. It is true, that an Englishman present affirmed, that the race horses in his country, ran the same distance in seven minutes; but this was, perhaps, an Anglicism..... What I am very sure of, is, that the horses of Germany cannot perform as much."

"It is also pretended, that the provisions of America are not so good as those of Europe, because hunger returns sooner after eating; but is this good reasoning? Wholesome food digests more easily and more rapidly than bad. Moreover, the remark is false, or, at least, is only applicable to some individuals, and some particular spots in America. For myself, I am not oftener hungry here than in Europe, and I know other Europeans, who say the same. Their meat is as fine to look at, and quite as good tasted, as it is at Hamburg, and their veal is even much better."

"We made a visit to Mr. Legaux, at Springmill, the same of whom Brissot speaks in his travels. He has a vineyard, the plants of which came from Bourdeaux, from Champagne, Burgundy, and the Cape of Good Hope. The last are those, which, as he informed us, succeed best..... The vintage of this year (1795) has completely failed; but the seasons immediately preceding, the proprietor made wines, both red and white, equal in quality to the best Medoc. The wine produced by the Cape plants is excellent. Mr. Legaux was formerly a lawyer of Normandy. The situation of his house is delightful. The Schuylkill forms several cascades in the vicinity, which are precipitated, with a rumbling velocity, from some eminences, then peacably gliding, till they inundate the meadows below. All the environs of this river are fine and beautiful."

Mr. Bülow, in speaking of the climate of North America, and of the sudden changes of heat and cold, of which the majority of travellers are wont to complain, observes, that these complaints are extravagant; and that, in fact, this climate is less changeable and less capricious than that of the north of Germany. In support of all that has been heretofore said, to prove that, in proportion as the forests are cleared, and the ground tilled, Mr. Bülow cites Tit. Livy, who relates, that the Tiber was once frozen to the very bottom; and he further recounts, that Julian was once stopped by the snow, in marching from Paris to Strasburg, and that in the month of September. The temperature of Italy, and that of France, have, in fact, softened a little since that period.

[*To be continued.*]

* The Minerva.

POLITICS.

FOR THE PORT FOLIO.

IN the following extract from the speech of Mr. Hemphill, on the bill for a repeal of the Judiciary law, we find sound and correct principle, seasoned with a spice of delicate irony. The stigma of adopting a foreign scale of interpretation, to test the weight of the judicial branch in our constitution, is retorted with no common ingenuity upon the authors of the reproach.

"It is said they (the judges) are not independent of parliament: Why, sir, nothing is independent of parliament, and there is not the same necessity there. There being no written constitution in England, the judiciary forms no check upon parliament—and besides, our government is not a copy of the British government; and this is not the only instance, where we have outstripped, as it is called, our too favourite prototype. There is not a leading feature in the constitution, that bears testimony of any servile imitation; it is our opponents, who wish to test our constitution, by the principles of the British government; it is they who wish a *construction* to be put upon the constitution by Congress, which shall be considered as the constitution itself; and are unwilling that there should be any check to oppose it, and of course every construction put upon it by the different legislatures, will exhibit the appearance of a new constitution to be tossed and blown about by every political breeze. The powers of Congress will be equal to the powers of the English parliament—transcendant, splendid, and without controul. I little expected, that such lordly power would be grasped at by our plain Republicans, who have no ambitious desires, and who wish rulers to be contented with humble prerogatives."

AN EXAMINATION OF THE PRESIDENT'S MESSAGE, CONTINUED.

No. XII.

FROM the manner in which the subject was treated in the fifth and sixth numbers of The Examination, it has been doubted, whether the writer did or did not entertain a decided opinion as to the power of Congress to abolish the offices and compensations of judges, once instituted and appointed pursuant to a law of the United States.... In a matter of such high constitutional moment, it is a sacred duty to be explicit. The progress of a bill lately brought into the Senate for repealing the law of the last session, entitled, " An act to provide for the more convenient organization of the courts of the United States," with the avowed design of superseding the judges, who were appointed under it, has rendered the question far more serious than it was while it rested merely on the obscure suggestion of the Presidential Message. 'Till the experiment had proved the fact, it was hardly to have been imagined, that a majority of either house of Congress, whether from design or error, would have lent its sanction to a glaring violation of our national compact, in that article, which of all others is the most essential to the efficiency and stability of the government; to the security of property; to the safety and liberty of person. This portentous and frightful phenomenon has, nevertheless, appeared. It frowns with malignant and deadly aspect upon our constitution. Probably before these remarks shall be read, that constitution will be no more! It will be numbered among the numerous victims of democratic phrenzy; and will have given another and an awful lesson to mankind....the prelude perhaps of calamities to this country, at the contemplation of which imagination shudders.

With such a prospect before us, nothing ought to be left unessayed, to open the eyes of thinking men to the destructive projects of those mountebank politicians, who have been too successful in perverting public opinion, and in cheating the people out of their confidence; who are advancing with rapid strides in the work of disorganization....the sure forerunner of tyranny; and who, if they are not arrested in their mad career, will, ere long, precipitate our nation into all the horrors of anarchy.

It would be vanity to expect to throw much additional light upon a subject which has already exhausted the logic and eloquence of some of the ablest men of our country; yet it often happens, that the same arguments placed in a new attitude, and accompanied with illustrations which may have escaped the ardour of a first research, serve both to fortify, and to extend conviction. In the hope that this may be the case, the discussion shall be pursued with as much perspicuity and brevity, as can be attained.

The words of the constitution are, " The Judges *both* of the Supreme and Inferior Courts *shall hold their offices during good behaviour*, and shall at stated times receive for their services a compensation which *shall not be diminished during their continuance in office.*"

Taking the literal import of the terms as the criterion of their true meaning, it is clear, that the *tenure* or *duration* of the office is limited by no other condition than the *good behaviour* of the incumbent. The words are imperative, simple, and unqualified: " The judges *shall hold their offices during good behaviour.*" Independent therefore of any artificial reasoning to vary the nature and obvious sense of the words, the provision must be understood to vest in the judge a right to the office, indefeasible but by his own misconduct.

It is consequently the duty of those who deny this right, to shew either that there are certain presumptions of intention deducible from other parts of the constitutional instrument, or certain general principles of constitutional law or policy, which ought to control the literal and substitute a different meaning.

As to presumptions of intention different from the import of the terms, there is not a syllable in the instrument from which they can be inferred; on the contrary, the latter member of the clause cited, affords very strong presumption the other way.

From the injunction, that the compensation of the judges shall not be diminished, it is manifest, that the constitution intends to guard the independence of those officers, against the legislative department; because, to this department *alone* would have belonged the power of diminishing their compensations.

When the constitution is thus careful to tie up the legislature, from taking away part of the compensation, is it possible to suppose that it can mean to leave that body at full liberty to take away the whole? The affirmative imputes to the constitution the manifest absurdity of holding to the legislature this language: " You shall not *weaken* the independence of the judicial character, by exercising the power of *lessening* his emolument, but you may *destroy* it altogether, by exercising the greater power of *annihilating* the recompense with the office." No mortal can be so blind as not to see, that, by such a construction, the restraint intended to be laid upon the legislature, by the injunction not to lessen the compensations, becomes absolutely nugatory.

In vain is a justification of it sought in that part of the same article, which provides that " The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress *may* from time to time ordain and establish." The position that a discretionary power to institute inferior courts includes virtually a power to abolish them, if true, is nothing to the purpose. The abolition of a court does not necessarily imply that of its judges. In contemplation of law, the court and the judge are distinct things. The court may have a legal existence, though there may be no judge to exercise its powers. This may be the case, either at the original creation of a court, previous to the appointment of a judge, or subsequently by his death, resignation, or removal. In the last case, it could not be pretended that the court had become extinct by the event. In like manner, the office of the judge may subsist, though the court in which he is to officiate may be suspended or destroyed. The duties of a judge, as the office is defined in our jurisprudence, are twofold....judicial and ministerial. The latter may be performed out of court, and often without reference to it. As conservator of the peace, which every judge is *ex officio*, many things are done, not connected with a judicial controversy, or, to speak technically, with a *lispendens*.

This serves to illustrate the idea, that the office is something different from the court; which is the place or situation for its principal action, yet not altogether essential to its activity. Besides, a judge is not the less a judge when out of court, than when in court. The law does not suppose him to be always in court, yet it does suppose him to be always in office; in vacation as well as in term. He has also a property or interest in his office, which entitles him to civil actions, and to recompense in damages for injuries that affect him in relation to his office; but he cannot be said to have a property or interest in the court, of which he is a member. All these considerations confirm the hypothesis, that the court and the judge are distinct legal entities, and therefore may exist the one independently of the other.

If it be replied, that the office is an incident to the court, and that the abolition of the principal includes that of the incidents.....The answer to this is, that the argument may be well-founded as to all subsequent appointments, but not as to those previously made. Though there be no office to be filled in future, it will not follow that one already vested in an individual by a regular appointment and commission, is thereby vacated and divested. Whether this shall or shall not happen must depend on what the constitution or the law has declared with regard to the *tenure* of the office. Having pronounced that this shall be during good behaviour, it will preserve the office, to give effect to that tenure for the benefit of the possessor. To be consistent with itself, it will require and prescribe such a modification and construction of its own acts, as will reconcile its power over the future, with the rights which have been conferred as to the past.

Let it not be said that an office is a mere trust for public benefit, and excludes the idea of a property or a vested interest in the individual. The first part of the proposition is true—the last false. Every office combines the two ingredients of an interest in the possessor, and a trust for the public.

Hence it is, that the law allows the officer redress by a civil action, for an injury in relation to his office, which presupposes property or interest. This interest may be defeasible at the pleasure of the government, or it may have a fixed duration, according to the constitution of the office. The idea of a vested interest holden even by a permanent tenure, so far from being incompatible with the principle that the primary and essential end of every office is the public good, may be conducive to that very end by promoting a diligent faithful, energetic, and independent execution of the office.

But admitting, as seems to have been admitted, by the speakers on both sides the question, that the judge must fall with the court, then the only consequence will be, that congress cannot abolish a court once established. There is no rule of interpretation better settled, than that different provisions in the same instrument on the same subject, ought to be so construed, as, if possible, to comport with each other, and give a reasonable effect to all.

The provision that " The judiciary power shall be vested in one superior court, and in such inferior courts as the congress *may*, from time to time ordain and establish," is immediately followed by this other provision, " The judges *both* of the supreme and inferior courts shall hold their offices during good behaviour."

The proposition, that a power to do, includes virtually, a power to undo, as applied to a legislative body, is generally, but not universally true. All vested rights form an exception to the rule. In strict theory, there is no lawful or moral power to divest by a subsequent statute, a right vested in an individual by a prior; and accordingly it is familiar to persons conversant with legal studies, that the repeal of a law does not always work the revocation or divestiture of such rights.

If it be replied, that though a legislature might act immorally and wickedly in abrogating a vested right, yet the legal *validity* of its act for such a purpose could not be disputed; it may be answered that this odious position, in any application of it, is liable to question in every limited constitution (that is, in every constitution, which, in its theory, does not suppose the whole power of the nation to be lodged in the legislative body);*....and that it is certainly false in its application to a legislature, the authorities of which are defined by a positive written constitution, as to every thing which is contrary to the actual provisions of that constitution. To deny this, is to affirm that the delegated is paramount to the constituent power. It is, in fact, to

* As in the parliament of Great-Britain.

affirm, there are no constitutional limits to the legislative authority.

The enquiry then must be, whether the power to abolish inferior courts, if implied in that of creating them, is not abridged by the clause which regulates the tenor of judicial office.

The first thing which occurs in this investigation, is, that the power to abolish is at most, an implied or incidental power, and as such will the more readily yield to any express provision with which it may be inconsistent.—

The circumstance of giving to Congress a discretionary power to establish Inferior Courts instead of establishing them specifically in the constitution, has, with great reason, been ascribed to the impracticability of ascertaining beforehand the number and variety of courts, which the developement of our national affairs might indicate to be proper; especially in relation to the progress of new settlements, and the creation of new states. This rendered a discretionary power to institute courts indispensible; but it did not alike render indispensible a power to abolish those which were once instituted. It was conceived, that with intelligence, caution, and care, a plan might be pursued in the institution of courts, which would render abolitions unnecessary. Indeed it is not presumable with regard to establishments of such solemnity and importance, making part of the organization of a principal department of the government, that a fluctuation of plans was anticipated. It is, therefore, not essential to suppose, that the power to destroy was intended to be included in the power to create: Thus the words "to ordain and establish," may be satisfied by attributing to them only the latter effect.

Consequently, when the grant of the power to institute courts, is immediately succeeded by the declaration that the judges of those courts shall hold their offices during good behaviour; if the exercise of the power to establish the courts cannot be reconciled with the actual holding or enjoyment of the office, according to the prescribed tenure, it will follow, that the power to abolish is interdicted. The implied, or hypothetical power to destroy the office must give way to the express and positive right of holding it during good behaviour. This is agreeable to the soundest rules of construction; the contrary is in subversion of them.

Equally in vain is a justification of the construction adopted by the advocates of the repeal, attempted to be derived from a distinction between the supreme and inferior courts. The argument, that as the former is established by the constitution, it cannot be annulled by a legislative act, though the latter which must owe their existence to such an act, may, by the same authority, be extinguished, can afford no greater stability to the office of a judge of the supreme court than to that of a judge of an inferior court. The constitution does indeed establish the supreme court; but it is altogether silent as to the number of the judges. This is as fully left to legislative discretion as the institution of inferior courts; and the rule that a power to undo is implied in the power to do, is therefore no less applicable to the reduction of the number of the judges of the supreme court than to the abolition of the inferior courts. If the former are not protected by the clause, which fixes the tenure of office, they are no less at the mercy of the legislature than the latter: And if that clause does protect them, its protection must be equally effectual for the judges of the inferior courts. Its efficacy in either case must be founded on the principle that it operates as a restraint upon the legislative discretion; and if so, there is the like restraint in both cases, because the very same words, in the very same sentence, define conjunctly the tenure of the offices of the two classes of judges. His sophistry can elude the conclusion.

It is therefore plain to a demonstration, that the doctrine which affirms the right of congress to abolish the judges of the inferior courts is absolutely fatal to the independence of the judiciary department. The observation, that so gross an abuse of power as would be implied in the abolition of the judges of the supreme court, ought not to be supposed, can afford no consolation against the extreme danger of the doctrine. The terrible examples before us, forbid our placing the least confidence in that delusive observation. Experience, sad experience warns us to dread every extremity —to be prepared for the worst catastrophe that can happen.

LUCIUS CRASSUS.

As it is the earnest wish of the Editor to preserve in this miscellany whatever will reflect light upon the political occurrences of the time, he publishes the following article, which exhibits the *stress* of the late argument in our national senate, on the judiciary bill. The correctness of this argument has been tested, and is vouched for. He, who studies it will have a distinct "view of the whole ground."

MR. PRESIDENT,

WHILE my honourable friend recollects himself, I beg leave to say a few words in answer to an argument, which has been much pressed today. I did not intend to rise again on this subject, especially at so late an hour (about 5 o'clock), and I promise to detain the house but a few minutes.

I did not expect, sir, to find the doctrine of the power of the courts to annul the laws of congress, as unconstitutional, so seriously insisted on. I presume I shall not be out of order in replying to it. It is said that the different departments of government are to be checks on each other, and that the courts are to check the legislature. If this be true, I would ask where they got that power, and who checks the courts when they violate the constitution? Would they not, by this doctrine, have the absolute direction of the government? To whom are *they* responsible? But I deny the power, which is so pretended. If it is derived from the constitution, I ask gentlemen to point out the clause, which grants it. I can find no such grant. Is it not extraordinary that, if this high power was intended, it should nowhere appear? Is it not truly astonishing that the constitution, in its abundant care to define the powers of each department, should have omitted so important a power as that of the courts to *nullify* all the acts of congress, which, *in their opinion*, were contrary to the constitution.

Never were such high and transcendant powers in any government, much less in one like ours, composed of powers specially given and defined, claimed or exercised by *construction* only. The doctrine of constructions, not warranted by the letter of an instrument is dangerous in the extreme. Let men once loose upon constructions, and where will you stop them. Is the *astutia* of English judges, in discovering the latent meanings of lawmakers' meanings, not expressed in the letter of the laws, to be adopted here in the construction of the constitution? Once admit the doctrine, that judges are to be indulged in these astute and wire-drawn constructions, to enlarge their own power, and controul that of others, and I will join gentlemen of the opposition, in declaring that the constitution is in danger.

To make the constitution a practical system, this pretended power of the courts to annul the laws of congress cannot possibly exist. My idea of the subject, in a few words, is, that the constitution intended a separation of the powers vested in the three great departments, giving to each exclusive authority on the subjects committed to it. That these departments are co-ordinate, to revolve each within the sphere of their own orbits, without being responsible for their own motion, and are not to direct or controul the course of others. That those, who make the laws, are presumed to have an equal attachment to, and interest in the constitution; are equally bound by oath to support it, and have an equal right to give a construction to it. That the construction of one department of the powers vested in it, is of higher authority than the construction of any other department. And that, in fact, it is competent to that department, to which powers are confided exclusively, to decide upon the proper exercise of those powers. That, therefore, the legislature have the exclusive right to interpret the constitution, in what regards the law-making power, and the judges are bound to execute the laws they make: For the legislature would have at least an equal right to annul the decisions of the courts, founded on *their* construction of the constitution, as the courts would have to annul the acts of the legislature, founded on *their* construction.

Although, therefore, the courts may take upon them to give decisions, which impeach the constitutionality of a law, and thereby, for a time, obstruct its operations, yet I contend that such a law is not the less obligatory, because the organ through which it is to be executed has refused its aid. A pertinacious adherence of both departments to their opinions, would soon bring the question to issue, in whom the sovereign power of legislation resided, and whose construction of the law-making power should prevail.

If the courts have a right to examine into, and decide upon the constitutionality of laws, their decision ought to be final and effectual. I ask then, if gentlemen are prepared to admit, that in case the courts were to declare your revenue, impost, and appropriation laws unconstitutional, that they would thereby be blotted out of your statute book, and the operations of your government be arrested? It is making, in my opinion, a mockery of the high powers of legislation. I feel humbled by the doctrine, and enter my protest against it. Let gentlemen consider well before they insist on a power in the judiciary, which places the legislature at their feet. Let not so humiliating a condition be admitted, under an authority resting merely on implication and construction. It will invite a state of things, which we are not justified by the constitution in presuming will happen, and which, should it happen, all men of all parties must deplore.

Mr. Morris. I rise to congratulate this house and all America, that we have at length got our adversaries upon the ground where we can fairly meet. They have now, though late, reached the point, to which their arguments tended from the beginning. Here I knew they must arrive, and now I ask, if gentlemen are prepared to establish one consolidated government over this country. Sir, if the doctrine they advance prevail; if it be the true doctrine, there is no longer any legislature in America but that of the union.

All the argument they have used in this debate went, of necessity, to that conclusion, which is now happily avowed. The honourable member tells us, the legislature have the supreme and exclusive right to interpret the constitution, so far as regards the making of laws, which, being made, the judges are bound to execute. And he asks where the judges got their pretended power of deciding on the constitutionality of laws. If it be in the constitution, says he, let it be pointed out. I answer, they derive that power from authority higher than this constitution. They derive it from the constitution of man, from the nature of things, from the necessary progress of human affairs. When you have enacted a law, when process thereon has been issued, and suit brought, it becomes eventually necessary that the judges decide on the case before them, and declare what the

law is. They must, of course, determine whether that which is produced and relied on, has indeed the binding force of law. The decision of the supreme court is, and, of necessity, must be final.—This, sir, is the principle, and the source of the right for which we contend.

But it is denied, and the supremacy of the legislature insisted on. Mark then, I pray, the result. The constitution says, no bill of attainder or *ex post facto* law shall be passed, no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration to be taken, no tax or duty shall be laid on articles exported from any state, no preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another. Suppose that, notwithstanding these prohibitions, a majority of the two houses should (with the president) pass such laws. Suppose, for instance, that a capitation tax (not warranted by the constitution) or a duty on exports were imposed....The citizen refuses to pay. But courts, dependent on the will and pleasure of the legislature, are compelled to enforce the collection. Shall it be said that there is an appeal to the supreme court? Sir, that appeal is subject to such exceptions and regulations as congress shall make. Congress can therefore defeat the appeal, and render final the judgment of inferior tribunals subjected to their absolute controul. Nay, sir, to avoid all possible doubt or question, the honourable member last up has told us, in so many words, that the legislature may decide exclusively on the constitution, and that the judges are bound to execute the laws which the legislature enact. Examine then the state to which we are brought. If this doctrine be sustained (and it is the fair logical deduction from the premises laid down) what possible mode is there to avoid the conclusion, that the moment the legislature of the union declare themselves supreme, they become so. The analogies so often assumed to the British parliament will then be complete. The sovereignty of America will no longer reside in the people, but in the congress, and the constitution is whatever they choose to make it.

I saw the end to which those arguments went, but I would not throw it out to the people. Gentlemen will, however, recollect, that, early in this debate, I prayed them to pause and consider. I mentioned to them without this bar the result of their doctrine, and yesterday I warned them to beware of deciding upon abstract propositions. But they insisted on the decision, and they still persist; let me then ask what safety is left for the states?

Experience under the old confederation had shewn, that applications made by congress to large communities were nugatory, and that to carry on the business of the national government, it should be invested with a right of applying directly to individuals. But then the danger that it might swallow up the sovereignty of the states became evident. To provide against that danger, the constitutional doctrine was established, that no power should be exercised by congress, but such as was expressly given, or necessarily incident, and, as a farther security, provision was made, prohibiting certain definite acts. But of what avail are such securities, when your legislative authority is to be bounded only by your own discretion?

While I was far distant from my country, I felt pain at some things, which looked like a wish to wind up the general government beyond its natural tone; for I knew that if America should be brought under one consolidated government, it could not continue to be a republic. I am attached to republican government, because it appears to me most favourable to dignity of sentiment and character. I have had opportunities to make the comparison. But if a consolidated government be established, it cannot long be republican. We have not the materials to construct even a mild monarchy, if, therefore, the states be destroyed, we must become the subjects of despotism.

It may perhaps be said, that all judges are bound by oath to support the constitution. But I ask how is that to be done? Their power over your laws is denied, and when once it is established that *you* and *you alone* are the legitimate interpreters of the constitution, they must be bound by your construction.

Gentlemen may flatter themselves that the danger from this quarter is remote or ideal. I know that so long as peace shall last, the states will be the general favourites, because they offer numerous objects to gratify little ambition, but no sooner shall this country be involved in war, than all men will look up to the national government for patronage and protection. Having then the command of large military force, it must, under the construction now set up, become supreme. Remember that the old congress conferred, without authority, dictatorial power over a large extent of country, and that it was exercised and submitted to without opposition. Gentlemen in this house represent the sovereignty of the states. I now call upon them. Are they ready to prostrate that sovereignty at the feet of the general government? I, sir, on the part of the state of New-York, beg leave to enter my solemn protest.

MISCELLANY.

[At a time, when the most licentious customs are followed even by those, who are saluted by the soothing name of the correct and the fashionable, the subsequent reproof from an elegant writer may, possibly, effect a partial reformation. "LYTTLETON" writes with much earnestness and indignation; and as these qualities are in aid of truth and virtue, we sincerely hope that he will not raise the "satiric thong" in vain.]

From the Gazette of the United States.

MR. BRONSON,

EVERY man, however insulated his situation, must feel an interest in the preservation of that pure decorum, which is the very life of a polished community. The continuance and exact observance of common and public decency is an object of universal concern. No one, uncorrupted by vicious principle, can regard with apathy, the least innovation, whose tendency is clear and direct to the corruption of the public manners. It may, at the same time, be remarked, that pernicious and fatal invasion of established decorum so frequently assumes a fascinating and deceptive garb, that it is incumbent to be both watchful for its detection and bold in its exposure. Your correspondent feels no peculiar interest in the subject of his present address. He is neither the father of girls, for whose moral safety he is anxious, nor is he the brother of sisters, whose notions and deportment, in the kind character of a friend and guardian, he is accustomed to watch with incessant vigilance. But, in the field of general and common interest, he deems himself susceptible of feelings, strong, lively, and approximating to those, excited in the anxious bosom of a parent or a brother. He will, therefore, without assuming the authority or displaying the severity of a censor, point to an object of public regard, which appears to call for open reprehension, and to require immediate and effectual correction.

It is the privilege and the practice of your correspondent, sir, to be familiar with scenes of fashion, gaiety, and delight. It has been his pride to believe, that there exists not on earth, a society suffering less from the corruptions ordinarily attendant upon polished association, than that, in whose enjoyments, he is wont to participate. In its scenes, it is novel to mark deviation from decorum, and extraordinary to witness the slightest invasion of the chastest rule. An appreciation of this state of society, above all comparison with any substitute, which could be produced by the fickle slaves of fashion, induces me to appeal to the correct, and honourable feelings of my fair countrywomen, upon a recent innovation, which savours strongly of licentiousness. I refer to the introduction of the *Waltz Dance* into the polished circles of our city, whose prevalence, it is hoped, will be short, when fairly marked by public discountenance as an *indecency*.

But few of your readers can be presumed to be acquainted with the Waltz. It may, therefore, be pertinent to mention, that this Dance, is marked by a familiarity of person, a voluptuousness of movement, a lasciviousness of look and a destitution of reserve, which must be obnoxious to that correct taste, which essentially differs both from mad licentiousness and from prudish austerity.... It should be further noted, that the revolutions are constant and giddy, that the feet of the dancers are in close and intimate union, that the male supports the female by gentle pressure of the waist, that the female, with skill, occasionally acquiesces in the softness of the scene, and then again repels her partner, and that the eye intent upon the eye speaks love and pleasure. Let me add to the description, that the measures of the music are soft and Syrenian, and what sense so blunt as not to perceive the tendency?

The lovers of the invaluable SPECTATOR will here call to mind the "*Moll Pately*," which was so obnoxious to his correspondent, the "Substantial tradesman, who appears not to have been *polished* out of paternal feeling, or honest decorum. They will recognize the identity of "Hunt the Squirrel" and "The Chase," and will readily perceive the affinity between "Moll Pately" and "The Waltz." The pen of Addison and his fellows was employed to correct this error of his day and to banish "Moll Pately" from the town. It is fervently to be wished, that Monitorial exertion might be able to drive back the Waltz from our unvitiated circles to the domes of luxury in the East, or produce its exile to a more appropriate abode among the natives of our American wilderness.

In a state of rigid and austere opinion, dancing in any form or fashion is proscribed as savouring of indecorum. But in the plain unadulterated dances, commonly known and practised in our country, I have been accustomed to see nothing but a healthful exercise and an innocent amusement. The dance, however, may well be deemed an unseemly entertainment, when society is found in that state of fanciful and fictitious polish, in which the gay are led to indulge in scenes, suited only to the recesses of a seraglio, and adapted only to the practice of Circassians, whose servile employment it is, with the vigilance of vestals, to preserve alive, by frolic, attitude and gesture, the glimmering flame in the bosom of a pampered ACHMET. Who then will hesitate to declare, that the Waltz dance has claims to patronage and practice rather from voluptuaries under an Asiatic sun, than from such as seek for innocence in their gaiety, and reason in their delight. Surely, its restriction may be expected to the abodes of those pitiable beings, who sacrifice innocence and happiness at the shrine of sensual pleasure, when its tendency is, manifestly, to familiarize the sexes to scenes, which are inimical to virtue, and to break down those barriers of reserve, which are wont to guard from corruption.

What then must be the feelings of an American, a plain man, who loves his country and its plain, unvitiated manners, at witnessing the introduction of a *dance*, which, when it has obtained the sanction of fashionable currency, must impair the character of his fair country-women, for pure, correct and decorous deportment?—Can he see with the same unconcern his own daughters or his sister practising the lascivious step to melting music, as he regards the theatrical hireling, who professionally mingles in the mad and mazy round, to

gratify the vitiated taste of admiring sensualists? No! with all the proneness of dissipation and extravagance, which increasing wealth and progressive luxury can give, we have yet measures of corruption to fill, ere we attain that plenitude of polished depravity which will compel us to regard, with indifference or approbation, so gross an invasion of the ancient, decorus and unpolluted manners of the country.

We are now free to express the hope, that modest and high-minded American females, whose pride is in purity of manners, and whose glory is in chastity of deportment, will regard with favour and feeling our serious appeal, and doom this alien to a speedy exile. We have spoken with plainness, for the subject demanded it; we have aimed at an honest and faithful, tho' not severe, exposure of a hateful practice. Our conclusion is made with confidence, that there is no true man's eye, to which the Waltz is not disgusting; that its encouragement must be conceived to result from pitiable vanity, which seeks an unaccustomed display of personal charms, or from something worse than vanity: That no fancied gracefulness will garnish unbecoming familiarity, or supply the absence of genuine delicacy: And, in short that the Waltz dance, by the discreet and correct part of our community, is decisively conceived to be incompatible with the dignity and delicacy of the American fair; and to be only adapted to the character of an hireling or a slave in the halls of an Eastern despot, where the effeminate lord and the abject ministers of his pleasure are upon the same level of baseness and degradation.

LYTTLETON.

MISCELLANEOUS PARAGRAPHS.

FOR THE PORT FOLIO.

THE following affectionate sonnet, the writer of this article applies to the cherished scenes of his rural life, and to a favourite friend, once his constant companion in the "wildly devious walks" of literature:

To climb at early dawn the mountain's side,
Ere devious herds have brush'd the dews away,
Be mine: at noon amid yon elms to stray,
Whose artless tufts the cooling current hide.

Mine from the purple heath's horizon wide,
To trace the splendours of reclining day:
Until the moon my homeward path to guide,
Distain the forest edge with silver grey.

And if such scenes the rising soul expand,
The flutter'd heart if simple bliss becalm,
Where nature closelier knits the social 'ye,
No light addition should my TYLER's hand,
With equal friendship's animating balm,
To letter'd ease the place of fame supply.

—

As many of our High-street loungers occasionally lounge on horseback, devote a part of their learned leisure to the management of the generous steed, and sometimes stride

"The hack Bucephalus of Rotten-Row."

I will extract, for their edification, a passage from an old writer, one Camerarius, who thus learnedly details the properties of a perfect horse:

He must have three parts, like those of a woman; broad breast, round hips, and flowing mane. In three things, he must be like a lion; his countenance fierce, his courage great, and his power invincible. In a threefold capacity, must he partake of the nature of the sheep; he must have its nose, its patience, and its docility. He must have three parts of a deer; the head, the leg, and the skin: three of a wolf; throat, neck, and hearing: three of a fox; ear, tail, and trot: three of a serpent; memory, sight, and flexibility: and three of a hare; running, walking, and perseverance.

Among the addresses, presented upon the accession of James I, was one from the town of Shrewsbury, wishing his majesty might reign, as long as the sun, moon, and stars endured. Faith, man said the king to the person who presented it, if I do, my son must reign by candle light.

—

An acute critic, commenting upon a celebrated modern tragedy, declares, that the principal character has very little reason to discover himself at the close of the play, except to relieve the poet, who has, at last, arrived at his fifth act. The truth is, action, in the modern drama, does not, like a good watch, proceed in a regular time, but is put backwards or forwards, according to the caprice or the convenience of the owner.

—

In a review of a volume of travels through America, the following observation occurs, respecting the *real* value of that hospitality, displayed by recent men, in a *new* country:

Hospitality is a virtue; but in a country like that which our traveller visited, it might truly be said to be a virtue, which amply repays itself. All countries, emerging from a state of nature, are, in general, distinguished for hospitality. A man, secluded from the frequent intercourse of human life, amid the deep and dreary forests of America, will think himself abundantly recompensed for his civilities to a stranger, who, for a moment, lets him feel that there are other human beings, beside himself.

—

In the chancel of a village church in England, on a grave stone, is the following epitaph, in monkish verse:

Vos qui transitis, Thomam deflere velitis;
Per me nunc scitis, quid prodest gloria ditis.

Which may be thus translated, without much disgrace to the elegance of the original:

All you that come near, upon Tom drop a tear,
From whom 'twill appear, that the rich are poor here.

—

A new weekly paper, under the denomination of the "Democratic Republican, or Anti-Aristocrat," has just made its appearance in Baltimore. It is edited by a person, who styles himself Cornelius Firebrand, junr. and its contents comport admirably with the incendiary title of its editor.

[*Philadelphia Gazette.*

—

Rosa, an Italian professor at Paris, has invented a process for making excellent bread, from two-thirds of flour, and one third of acorns. The acorns are freed from their natural bitterness, by boiling them in water. The bread, made of equal parts of flour and acorns, is wholesome and pleasing to the taste, but harder and less white than the first.

—

Sheridan, in his life of dean SWIFT, is singularly happy, both in the thought and expression of the following paragraph, descriptive of the pleasure experienced by the dean, from an act of signal charity:

"This was the first opportunity he had, of letting loose that spirit of generosity and benevolence, whose greatness and vigour, when pent up in his own breast, by poverty and dependence, served only as an evil spirit to torment him."

—

In the legislature of New-York, the Hon. Thomas *Storm* has been unanimously elected *Speaker*. This, the Yorkers doubtless think, as consul Obrien would say, "looks *squally*," it bodes, we fear, a *boisterous* session.

—

Buonaparte has been invited, by the *Cisalpine* provisional government, to appoint the first magistrates of that republic, which he has *consented to!*

A quack in the city of New-York, who assumes the name of Dr. Roberts, advertises his skill in the cure of a variety of disorders to which the human frame is liable; particularly the Venereal, without the use of Mercury. He undertakes generally, to cure all disorders, *not incurable*; more especially the king's evil, cancers and *sore legs*. Invalids, we think, are under infinite obligations to Dr. R. as, contrary to the commonly received axiom, *there is now help for sickness and sore shins.*

—

The meditated 'lopping of the excrescent parts' from the constitution by the present democratic majority, is likened by a facetious writer in 'The Balance,' to the spoiling of a wig which was worn by one of the primitive parsons of New-England. His parishioners were incensed and grieved that he should wear a wig in the Boston fashionable cut, and which they thought unscriptural, and dashed with that part of the decalogue, which denounces the worship 'of any graven image, or any likeness 'of any thing that is in heaven above, or earth 'beneath.' The parson paid attention to their remonstrances, and, assembling them together, delivered over to them the frizzled cause of their complaints, to be mutilated and fashioned by them to their liking. After clipping and hacking it till they thought there was no sin in worshipping it, it being the likeness of nothing in heaven or on earth, they consented that their pastor might wear it. So will it fare with the Constitution. After the first false amendment, every bungler will be applying his shears to its curls, and clipping it to his liking, till, in a moment of public lethargy, this Sampson of our trust, will be made to bow to the art of some usurping and darling Dalilah.

—

The political imbecility of one of our members of Congress is quite a topic of condolence in the Coffee-house circles. If Mr. Bayard saucily exults that Mr. Smilie sometimes *knows his own sentiments*, it should be remembered that *not to know one's own mind* is a common failing; that Mr. S. on classical authority has an established right to be simple, for one of the seven sages of Greece has declared that "The *majority* are *foolish*," and moreover the "honourable gentleman" has the honour to remember *Sir Hudibras* both in his *republicanism* and in his indistinctness of conceptions;

"His notions fitted things so well
That *which was which he could not tell:*
But, oftentimes, *mistook the one*
For the other, as great clerks have done."

—

At a college *commencement*, one of the new created masters undertook to preach before his brethren. Wit, at that time, being allowed by peculiar dispensation, he selected for his text,

"*We are of yesterday, and know nothing*

Beloved, says he, this text fitly divides itself into two parts:

1. The first, respecting our *standing*, "We are but of yesterday,"

2. The second, respecting our *understanding*,—"*And know nothing.*"

When I know more, I will tell you more.

Meanwhile, let what you have heard suffice, with an....Amen.

—

A French Gentleman once travelling in his cabriolet from Paris to Calais was accosted by a man, who was walking along the road, and who begged the favour of him to put his Great-coat, which he found very heavy, into his carriage.... With all my heart, said the gentleman, but if we should not be travelling to the same place, how will you get your coat? Monsieur, answered the man, with great naiveté, "*Je serai de dans.*" I shall be in it.

During the punning reign of king James I, a man being reprimanded for swearing, replied, he did not know there was any harm in it. No harm in it! said a person present, why, don't you know the commandment, *swear not at all.* Why, I don't swear *at all*, I only swear at those who offend me.

—

Quin, the comedian, and another gentleman, riding one summer's day upon Lansdown, observed, at some distance, a person on horseback, whose *silver* laced coat and waistcoat shone prodigiously in the sun. Several conjectures were formed, respecting the quality of the approaching *meteor;* till at length he came near enough to discover that he was a Bath apothecary, famous for finery and dress. Oh, said the gentleman, 'tis only the *quick silver* doctor at last. Aye, said Quin, in his dry manner, all is not *gold* that *glysters*, you see.

—

Count T. complained to Foote, that a slanderer had ruined his character. So much the better, replied the wit, for it was a d.....d bad one, and the sooner destroyed the better.

—

An apothecary, a quaker, meeting Dr. Fothergill, in the street, thus accosted him:.....Friend Fothergill, I intend dining with thee to-day. I shall be glad to see thee, replied the doctor. I intend bringing my family with me, says the apothecary. So much the better, quoth the doctor; but pray, friend, hast thou not some joke? No joke indeed, replies the apothecary, but a very serious matter. Thou hast attended friend Ephraim these three days, and *ordered him no medicine.* I cannot live at this rate, in my own house, and must therefore live in thine. The doctor took the hint, and prescribed handsomely for the benefit of his friend Ephraim, *and his friend Leech, the apothecary.*

—

Although we have for a long time refused giving any further place to *cheese-communications* being of opinion the cheese has been toasted and re-toasted till it has become quite unpalatable, we hope the following bagatelle, from a valuable correspondent, will be received with a relish.

Extract of a letter from Washington.

" The celebrated mammoth cheese, which has long been the fruitful topic of public discussion, will not *totally* cease to exist after the fourth of March, when it is to be immolated on the altar of liberty.

The president having discovered, by dint of that *sagacity*, for which he is so distinguished, that the *rind* is not calculated for consumption, called a council of *the wise men of the west*, ' in order to take into joint-cogitation the applicability of this circumambient part of this magnitudinary whole.' After mature deliberation, and much *sapient* discussion, it was resolved, in conformity to that system of economy, which has uniformly guided the counsels of the present executive, to collect the *parings*, embalm and deposit them in a golden urn, to be prepared for that purpose, and to be lodged in the *Knick-nackatory* at Monticello, there to remain *in secula seculorum*, as a trophy of private patriotism, and a monument of public gratitude and taste.

" That nothing might be wanting to add dignity to the *precious* deposit, the president, in the true spirit of gallantry, addressed the fair framers of the stupendous offering, requesting ' a *reiterated* developement of those intellectual powers, which their co-exertions had so felicitously effectuated, in the conformation of this gigantic production of the dairy, by supplying an appropriate inscription for the comprehensive vase.' The request of the *august* applicant was readily complied with; and I am happy that it is in my power to furnish you with a copy of this concentration of female genius.

THIS URN
Contains the superficial *stratum* of a circular mass
of vaccine juice,
Consolidated by
The female patriots of Massachusetts, and in
concert with
Their acquiescent husbands
presented to
Th: Jefferson, the political Colossus of Columbia;
In testimony
Of their grateful admiration of those talents,
So strenuously exerted
In accelerating the approach of that
Blessed Era
Which in the language of derision is termed
The Gallic Millenium:
When those exclusive barriers that now surround
The *mono*-matrimonial state
Shall be broken down;
And the human mind
Shall bound at will over the sunny regions of
Unrestrained enjoyment—
In brief
When Nature's reign shall be restored,
This Urn was fabricated, replenished and inscribed at that memorable Epoch in American History, when Philosophy was President—
Stability Secretary of State,
And
Loyalty was Secretary of the Treasury,
Under the government
Then stiled *Federal.*

" The above delicate *morceau* of monumental literature is not unworthy of those female talents which gave consistency and shape to the milky flood of *votive* patriotism. It is by no means what in the cant of criticism is called a *wheyish* composition. On the contrary, it is highly enriched with the courtly *curd* of compliment, and seasoned with the Attic *salt* of sentiment."

[*N. Y. Even. Post.*]

—

A *Tobacconist* having made a fortune by his business resolving to set up his carriage, consulted a classical friend respecting a proper *motto*, adding that he was afraid he should be accused of ostentation and laughed at by his less fortunate neighbours. Never mind that, replied the friend, I can give you a motto that will silence them. The carriage was started, and the words " *Quid rides,*" appeared in conspicuous characters on the pannel. Those, who understood Latin, and were disposed to laugh at the new made gentleman, felt the reprimand. But the croud, taking it for English, shouted as he passed, Quid rides....Quid rides.

—

An elegant writer, describing the perfections of a lovely woman, declares, in glowing phrase, that " the fire, which flashed from her eyes, shewed, that she felt all the passions, which she inspired."

—

Among the many works from the American press, which evince the industry and literary enterprise of our printers, no one is more extensively useful than " Parkinson's Chymical Pocket-book," lately published by Mr. James Humphries, of this city. The pupil and the master of chymistry, from this book, will equally obtain information; the lover of science will peruse it with pleasure and profit; and the curious will be by it indulged. Its facts are correct; they are taken from the works of masters of the science; its theories are ingenious; they are those of the most wise of modern chymists. " An Account of the principal Objections to the Antiphlogistic System of Chymistry," is added to this work, by Dr. James Woodhouse. The acknowledged talents and known correctness of this gentleman, are sufficient pledges of the value of this addition.

ORIGINAL POETRY.

FOR THE PORT FOLIO.

The subsequent satire will be more fully understood, by recurring to an admirable prose description, which the historian of the Aurora has given to a wondering world In the far famed Museum of Mr. Peale.

Behemoth, biggest born of earth
Upheaves his vastness,

And thirteen democratic Virtuosi have decided that even the dry bones of the Mammoth afford very pretty picking.

AMERICAN MIRACLE.

The SKELETON, with which it is Mr. Rembrandt Peale's intention shortly to visit Europe, was yesterday so far put together, that previous to taking it to pieces for the purpose of packing up, HE, AND TWELVE other gentlemen partook of a collation WITHIN the BREAST of the animal, all comfortably seated round a small table, and one of Mr. Hawkins's Patent Portable Piano's;—after which the following toasts were drank, accompanied with music.

1. The *Biped* animal MAN—may peace, virtue and happiness be his distinguishing character.

2. The American People—May they be as pre-eminent among the nations of the earth, as the canopy we sit beneath surpasses the *fabric* of the Mouse. *Yankee Doodle.*

3. Agriculture—In constituting the pride and riches of our country, may its rewards be as abundant as THIS FRUIT* was unexpected.

4. The Constitution of the United States—May " its ribs be as ribs of brass, and its back-bone as molten iron."† *Hail Columbia.*

5. The arts and sciences—nursed in a genial soil, and fostered with tender care, may their honour prove as *durable* as the *bower* which surrounds us.

6. The brains of freemen—May they never be so barracadoed by the *jack-ass bones* of opposition as to crush their native energy.

7. The Friends of Peace—To all else, such *bones to gnaw*, as dried by ten thousand moons, may starve their hungry maws.—*Jefferson's March.*

8. All Honest Men—If they cannot feast in the *Breast of a Mammoth*, may their own breast be large enough.

9. The Ladies of Philadelphia—Ere their *naked beauties* prove as horrible as bare bones, may virtue behold them clothed in the garment of modesty.

10. The present company—May their *second* birth, though from the womb of the breast, be followed with every blessing of life.

Volunteer.—Success to these Bonny parts in Europe.

—

ORPHEUS! thou flinty-rock-enliv'ning God!
Thou dancing-master to the tree clad mountains!
Be kind for once, and tell me by a nod,
A nod familiar, gentle, kind,
That up Parnassus I may wind
And tipple inspiration at the muses' fountain
Where thou, its keeper, fiddlest all the day
While pebbles, sands and stones, like hail-storms
round thee play....
Orpheus! I venerate thy fiddling talent
And wish to make of it a little trial,
I know thee musical and very gallant
Too much so to return a flat denial....
I pray thee, fiddler! to accept from me,
The homage of my high consideration,
Arcadian swains did not more joy to see
Thy wife and thee among them shew your
faces,
Teaching the aukward oaks the airs and
graces,
Than I should, would'st thou kindly take thy
station
At *Peale's Museum*, pride of this great nation!
Thou know'st, sweet Orpheus! that this Mr.
Peale
Has sent his Raphael and his Rembrandt
round,
Wherever toe-nails of a flea are found
To serve, *without reward*, the common weal!
These apes of Italy have had good luck
Wherever bee-like, they have stopp'd to suck;
Yet when they only skeletons could find
They brought the bones, but left the life behind...
Now, Orpheus! could'st thou visit the Museum'

* These bones were discovered by farmer's diging for Manure.

† Job, chap. 40.

Striding the back-bone of a crocodile
Which Mr. Peale transported from the Nile,
And hum a single couplet of *Te Deum*,
In cap'ring fit
The wren and tit,
The lion, bear,
The monkey, hare,
The crouching cat,
The half-blind bat
And cunning rat,
The Turkish dog,
The mud-clad hog,
And hopping frog,
The long-tailed mouse,
The dappled louse,
And Jersey growse,
The soaring eagle,
Sharp-eyed beagle,
The chatt'ring daw,
And Indian squaw,
Rocks, sands and stones,
And Mammoth's bones,
The spider too,
And all the crew,
Of insects vile,
Brought many a mile,
The sleek black bug,
(So fond of rug)
Which lies so snug
In glassy case,
And shews its face
To all of those
Who love rare shews,
The gaggling goose,
And aukward moose
Would all get loose
Would bound, turn round, and reel and squeal
While Raphael, Rembrandt, ev'ry Peale
From street to street, from door to door,
In extacy would run and roar,
" *The wond'rous work explore*"....

Opheus! I wish to sound a strain
That e'en thyself would'st not disdain,
Of dinner-parties in a Mammoth's belly,
Of puddings, custards, pies and jelly,
What toasts roar'd loudly thro' the Mammoth's ear, or,
Were sweetly sounded thro' his wide posterior.....
This is my theme, sweet Orpheus! let me cheer
In strains most musical, *Mazzei's* ear
While lolling idly in his rocking-chair....
Rembrandt and *other gentlemen* were seen
Within a Mammoth's belly, round and clean,
(Bones of a Mammoth found by some rude boor,
While, heedless of his luck, he dug manure)
Within its maw a walnut table plac'd,
Profusely deck'd to please the varied taste,
A frog's hind leg here met the roving eye,
And there the muscles of a spider's thigh,
A bat's small pinion in a muscle-shell
In snail's blood fried, sent forth a sav'ry smell,
High season'd, in an eagle's upper bill
Were powr'd the juices of a fat skunk's tail,
Within the thigh-bone of a Spanish mule
A Salamander's blood was plac'd to cool!
Upon a block of petrified cork-wood,
Right on the centre of the table stood
A precious prize....a huge green-turtle's shell
Found in the belly of an *Erie* whale,
Who swimming over Niagara's fall
Was bruis'd so much, it died at Montreal!....
Within this shell, a motley soup was made
Which more than all had Rembrandt's art display'd,
Thousands of strange ingredients in it thrown,
Were stirred together with a large jack-asse's bone....
To pay his homage to each curious guest
Who revelled at this philosophic feast,
Mazzei toiling for his people's ease
Had thither sent *a slave* with Mammoth cheese....
A *mity* cheese in Cheshire lately made
Without the *hands of slaves or foreign aid*,
And sent to him who guides the helm of state
Who, *moon-like* rose, just when *our sun* had set....
By free-born yankees made within a state
Which (ne'er *till now* had meanly prais'd the great,
Which ne'er *till now*, had stoop'd to flatter one
Who had belied *his* friend, *our* Washington.)
This cheese they nibbled like so many mice,
While mites skipped nimbly and as thick as lice
On head of *Callender* before 'twas shorn
By barber's shears which cruelly had torn
Husbands from wives, unmov'd by their petition
That they might still retain a *thirty years possession*,
Now seated round the walnut table snug
Sipping Siberian whisky from a mug,
Found undigested, by an Indian squaw
Within a Cassowari's monstrous maw....
Rembrandt arose, the master of the feast
And thus address'd each virtuoso guest,
" Philosophers! the table-cloth remov'd,
" List to my toast, and be it well approv'd....
" Hawkins! strike up the tune, which *David* play'd
" When at his feet the queen of Sheba laid
" To bathe his legs....a condescending maid"....
Hawkins obey'd the order and began,
While Rembrandt gave " *The Biped creature man*,
" *May virtue, peace and happiness appear*,
" *His character, distinguishing him here.*"
The soft, and love-sick strains crept gently round,
And thro' the Mammoth's tail and ears they found
Wide open'd doors and breath'd a pleasant sound,
A pipe of flint-stone Rembrandt now display'd
(By *Little Turtle's* mother's grandsire made)
And fill'd it with tobacco made long since
By Walter Raleigh. When he last went hence,
He left it with the tribe from which descends
Cornplanter, noblest of our Indian friends!....
The chesnut tree which grows on Ætna's side,
(Whose trunk can more than fifty Mammoth's hide)
A coal to light this curious pipe supplied....
The pipe went round, and as the smoke curled up,
Each virtuoso forward stretched his head,
(Much like tame geese when under gates they tread)
And through his nostrils tried to get a sup....
Rembrandt again rose up with pompous phiz,
And look'd as if he meant his guests to quiz
With a strange toast, of which not one who heard
Could, for his soul, well understand one word....
" *The brains of freemen! may they never be*
" *So barricaded by the jack-ass bones*
" *Of opposition, that their native energy*
" *Be crushed, like adder's heads, between two stones.*"
Hawkins, with jaws, extended wide, look'd round,
His *patent portable* breath'd not a sound,
In admiration and in wonder lost
Ign'rant what tune to play to such a toast,
Then idly dropt his fingers on the keys,
And struck (apparently with greatest ease)
Such sounds of harmony as hungry cats,
Would make when running o'er the keys in chace of rats....
The tune concluded, Rembrandt rose again
And gave a gentle toast in mildest strain,
" *The friends of peace! may all else have such bones*
" *To gnaw, as dried by twenty thousand moons*
" *May starve their hungry maws,*
" *And break their jaws.*"
A toast so mild, deserved soft melting airs,
And Hawkins, ever ready, struck their ears
With that sweet *march*, which when *our freedom died*,
A *Frenchman* made to soothe *Mazzei's* pride....
Rembrandt again rose up and roared aloud,
A toast among the philosophic crowd,
" *The Philadelphia Ladies! as we love*
" *Them all, we'll say, before their naked beauties prove*
" *As horrible as bare bones, may we see*
" *Their limbs beneath the garb of modesty*"....
Could a philosopher this toast express?
Who loves sweet nature in a naked dress?
Who loves to see her naked, unadorned?
Who, as superfluous has ever scorned
The artificial trappings of the world,
And swears that nature from her throne is hurled?....
If future females should conceal each limb
With robes, philosophy would be a whim....
Uncertain theory, mere speculation,
An idle business of calculation....
What philosophic brain pretends to know
The changes female forms may undergo....
And if a change in female forms should be,
How should we know it, when we cannot see
Their limbs, beneath the garb of modesty?...
But, Orpheus! cease, for God's sake that strain
I'm tired of singing, by my soul, I am,
My throat is parched....give me a cooling dram....
When next I want thee, I shall call again....
Yet one breath to tell each curious ear,
That after ten toasts and a volunteer,
Rembrandt first crept from out the Mammoth's maw,
And hung suspended by the lower jaw,
Then eighteen feet dropt down upon the earth,
Where Raphael stood to greet him at his " *second birth*"....
Some crept between the ribs....some thro' the ears,
Gretted of all its guests, the beast appears,
Save Hawkins, who within his belly latent
Took up his *portable piano patent*,
Together much too large t'escape before,
They *found a passage* thro' the wide back-door.

SELECTED.

The following pretty parody will please all who remember " The Mountaineers."

SONG.

Tune—" Hollow Drum."

WHEN the busy toil of day is done,
And beneath the mountain sinks the sun,
Soft and fair,
The vernal air,
And echo answers merrily;
When I move
To meet my love,
My bounding heart beats cheerily.

When the yellow moon-beams light the vale,
And the bird of sorrow sings her tale,
Sad and low
The warbled woe,
Sounds thro' the wild-wood drearily;
Then breathe I
The tender sigh,
While beats my heart less cheerily.

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